IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.548 OF 2007

In the matter of M/s.
Ronilo Pharma Pvt.Ltd.

M/s.Shishir Gor, Proprietor of
M/s.Rigueur Printorium, .. Petitioners.

Mr.Vijay R.Sutrale for the petitioners.
None for the respondent.

CORAM : D.B.BHOSALE, J.
DATED : 13TH SEPTEMBER, 2007.

P.C.:

. Heard learned counsel for the petitioners.

2. The petitioner is a proprietory firm carrying on business of manufacturing of cartons and labels. They had supplied the cartons and labels to the respondent-company from time to time in response to the orders placed by them with the petitioners. It appears that on several occasions the goods were sold, supplied and delivered to the respondent-company and the bills/invoices were raised. The particulars of the claim show that the total amount of different invoices raised between 8th April, 2004 and 22nd April, 2004 which the respondent-company failed to pay is Rs.17,35,815.47. Since this amount was not paid a statutory notice was issued by the petitioner to the respondent-company on

29th March, 2005. The notice was not responded to by the respondent-company. Accordingly, the petition for winding up has been instituted by the petitioner. Though the company petition for winding up has been duly served on the company and affidavit of service dated 24th August, 2006 has been filed, the company has chosen not to file reply or to appear in this petition. The statements and the allegations made in the petition have not been controverted. From the facts set out in the petition and also from the documents annexed to the petition it appears to me that there is debt due and payable.

3. However, in order to furnish the respondent with an opportunity to avoid the consequences of the admission of the petition for winding up, it would be appropriate to pass a conditional order permitting the respondent to deposit the principal amount of Rs.17,35,815.47 as per different invoices raised by the petitioner as stated in the particulars of claim from 4th April, 2004 till 19th November, 2004. Thereupon, the petitioner would be relegated to the remedy of filing a suit for the recovery of its dues together with interest and the amount so deposited would be credited to the account of the suit. Hence, the following order:

(i) Within a period of 3 months from the date of this order, the respondent shall deposit with the Prothonotary & Senior Master of this Court, an amount of Rs.17,35,815.47.

(ii) The petitioner is at liberty to file a suit before the competent court for the recovery of the price of the goods sold, supplied and delivered. The petitioner would be at liberty to institute a suit for recovery of its dues within four months of an intimation of deposit furnished by the counsel for the respondent;

(iii) The amount deposited shall upon the institution of the suit stand transferred to the credit of the account of the suit;

(iv) The amount upon being transferred to the credit of the suit account shall be invested in a fixed deposit of a Nationalised Bank. The petitioner will be at liberty to move the court for directions in regard to the money which would be deposited;

(v) In the event, the Respondent-company fail to deposit the amount as directed, the company petition shall stand admitted. In that event the petitioner wto advertise the petition in "Free Press Journal",

"Nav Shakti" and also in Maharashtra Government Gazette. The petitioner to deposit Rs.10,000/- with the Prothonotary and Senior Master towards publication charges.

(vi) If no suit is instituted by the petitioner within the period stipulated, the respondent would be at liberty to apply for discharge of the security.

(vii) Notice under Rule 28 of the Company (Court) Rules be issued to the respondent-company. In addition thereto the petitioner to give notice to the respondent-company intimating them about the admission of company petition within a period of four weeks from today.

4. The company petition is accordingly disposed of in the above terms.

(D.B.BHOSALE, J.)